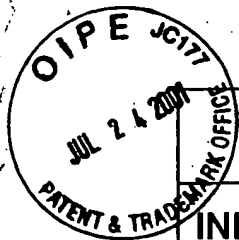


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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

INFORMATION DISCLOSURE STATEMENT		Docket Number: 11032/2144 PATENT	
Reissue Applicant Dwight Allen MERRIMAN et al	Reissue Application No. 09/577,798	Reissue Filing Date May 24, 2000	
Patent Number 5,948,061	Issued September 7, 1999	Examiner Harle, J	Art Unit 2166
Invention Title METHOD OF DELIVERY, TARGETING, AND MEASURING ADVERTISING OVER NETWORKS		Assignee DoubleClick, Inc.	

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Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.56, the attention of the Patent and Trademark Office is hereby directed to the references listed on the two attached PTO-1449's. Unless otherwise indicated herein, one copy of each reference is attached. It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear among the "References Cited" on any patent to issue therefrom.

Applicants disclose for the Examiner's review, as discussed below, documents relating to litigation (*DoubleClick, Inc. v. L90, Inc.*, 00 Civ. 2690, S.D.N.Y.) involving U.S. Patent No. 5,948,061 (the '061 patent") on which this Reissue Application is based. (DoubleClick brought suit against Sabela in a related action (*DoubleClick, Inc. v. Sabela Media, Inc.*, 99 Civ. 11718 (DLC), S.D.N.Y.) that was consolidated into the L90 action). DoubleClick, Inc., plaintiff in the above-referenced litigation, is the assignee of record of the '061 patent. Although the infringement and invalidity portions of the litigation had been stayed pending the outcome of this Reissue Application, the litigation moved forward on the

sole issue of alleged inequitable conduct before settling on November 29, 2000.

In an effort to alleviate the Examiner's burden of reviewing the litigation documents, Applicants have set forth below the general issues that surfaced in the litigation, and offer some direction through the disclosed documents. As a side note, Applicants have disclosed the documents that seem useful for the Examiner to assess the patentability of the present invention. If the Examiner wishes to obtain and review additional litigation documents for that purpose, the Examiner is invited to make that request of Applicants.

The following general issues surfaced in the litigation:

1. Whether an offer to sell or commercial sale of the invention of the '061 patent to a company named Attachmate occurred more than one year before the filing date of the '634 application under 35 U.S.C. § 102(b);
2. Whether the SmartBanner ad serving technology of a company named FocaLink constituted a public use or publication of the invention of the '061 patent more than one year prior to the filing date of the '634 application under 35 U.S.C. § 102(b); and
3. Whether a public use of the invention of the '061 patent between the inventors and a company named ISS occurred more than one year before the filing date of the '634 application under 35 U.S.C. § 102(b).

The following pre-trial motions and orders from the litigation are disclosed to the

Patent Office:

- OK • Plaintiff DoubleClick's Pre-Trial Memorandum of Law
- Defendant L90's Opposition to Plaintiff DoubleClick's Pre-Trial Memorandum of Law
- OK • Defendant L90's Pretrial Memorandum of Law
- Plaintiff DoubleClick's Memorandum of Law Submitted in Response to Defendant L90's Pre-Trial Memorandum of Law
- OK • Plaintiff DoubleClick's Proposed Findings of Fact and Conclusions of Law

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- 2K
- Defendant L90's Proposed Findings of Fact and Conclusions of Law
 - Joint Pretrial Order

OH
OH

The stipulations of dismissal for the L90 and Sabela actions were disclosed to the Patent Office under the Notification Regarding Litigation filed April 4, 2001.

In the litigation, Plaintiff submitted 30 trial exhibits and Defendant submitted 312 trial exhibits. To minimize the Examiner's burden, Applicants have furnished the subset of trial exhibits that are referenced in the disclosed pre-trial motions and orders. These exhibits include:

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- 2K
- Plaintiff's Exhibits: 8, 11, 13, 14, 16, 23, 29, 30
- OH
- Defendant's Exhibits: 2, 4, 5, 6, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 29, 30, 31, 32, 35, 36, 37, 38, 39, 40, 41, 44, 45, 48, 49, 50, 56, 57, 58, 59, 61, 63, 64, 66, 67, 68, 69, 70, 71, 76, 77, 80, 89, 90, 91, 93, 96, 97, 98, 99, 101, 106, 111, 113, 114, 115, 118, 193, 194, 215, 216, 217, 223, 226, 231, 248, 296, 298, 301, 310, 311, 312

Of the 17 deposition transcripts and 11 trial declarations from the litigation, the following deposition transcripts and trial declarations are disclosed to the Patent Office:

Name	Context
DEPOSITION TRANSCRIPTS	
2K Dwight Merriman	co-inventor of the '634 application
OH Kevin O'Connor	co-inventor of the '634 application
OH Chris Buckingham	Attachmate executive (relates to issue no. 1)
OH Thomas Noonan	Principal of ISS (relates to issue no. 3)
OH Ron Kovas	CEO of FocaLink (relates to issue no. 2)
OH David Zinman	Founder of FocaLink (relates to issue no. 2)
OH Christian Knott	DoubleClick's technical expert
OH Balakrishnan	L90's technical expert

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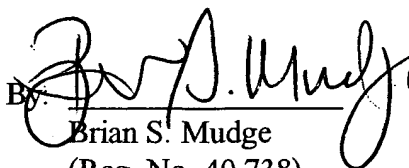
Name	Context
TRIAL DECLARATIONS	
8/ Dwight Merriman	Direct (Trial) Testimony
8/ Kevin O'Connor	Direct (Trial) Testimony
8/ Christian Knott	Expert Report
8/ Hari Balakrishnan	Expert Report
8/ Hari Balakrishnan	Direct Trial Testimony

This Information Disclosure Statement is being filed more than three months after the U.S. Reissue filing date and after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

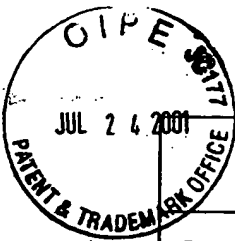
The Patent Office is hereby authorized to charge the \$180.00 fee for filing an information disclosure statement under 37 C.F.R. § 1.97(c). Although not believed necessary, the Patent Office may charge any additional fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600. A copy of this sheet is enclosed for that purpose.

Respectfully submitted,

Dated: July 24, 2001

By: 
 Brian S. Mudge
 (Reg. No. 40,738)

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 Washington, D.C. 20005
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U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

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Technology Center 2100

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT		Docket Number: 11032/2144 PATENT	
Reissue Applicant Dwight Allen MERRIMAN et al	Reissue Application No. 09/577,798	Reissue Filing Date May 24, 2000	
Patent Number 5,948,061	Issued September 7, 1999	Examiner Harle, J	Art Unit 2166
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Commissioner for Patents
Washington, D.C. 20231

Sir:

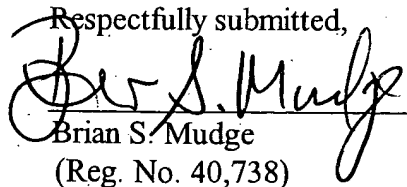
In conformance with Applicants' duty of disclosure under 37 C.F.R. § 1.56 and § 1.97(b)(3), the references listed on the attached form PTO-1449 are hereby brought to the Examiner's attention.

It is respectfully requested that the information be expressly considered during the prosecution of this application, and that the references be made of record therein and appear in the "references cited" on any patent to issue therefrom.

This Information Disclosure Statement is being filed more than three months after the U.S. Reissue filing date and after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

09/15/2001 BTURMER 00000002 110600 09277798
Sale Ref: 00000002 00000002 09/15/2001 180.00 01
The Patent Office is hereby authorized to charge the \$180.00 fee for filing an information disclosure statement under 37 C.F.R. § 1.97(c). Although not believed necessary, the Patent Office may charge any additional fees required under 37 C.F.R. 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600. A copy of: sheet is enclosed for that purpose.

Date: July 24, 2001

Respectfully submitted,

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